

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**ELLIE SHKOLIR, RASHAD WILLIAMS, and  
EVGENII BADGAEV**

Plaintiff,

v.

**RX2GO, INC., and,  
ERKIN SATTAROV, an individual,**

Defendants.

Case No. 1:23-cv-7256-OEM-PK

**Declaration**

1. I am at least 18 years old, am competent to write this declaration, and am giving this declaration on the basis of personal knowledge of facts and circumstances stated herein. I represent the Plaintiffs in the above-captioned action and have been responsible for its management throughout the duration of litigation.
2. By order of 8/4/024 the Court “The parties are ordered to meet and confer by videoconferencing on August 6, 2024 at 11:00 a.m. regarding: ... 3) Plaintiffs' proposed amendments to the complaint; and 4) Defendants' anticipated motion for judgment on the pleadings.”
3. Counsel for the parties met on 8/6/2024 by Zoom.
4. Relevant hereto, following that Zoom I sent an email recapping what we had discussed that in relevant part stated as follows (Ex. 1):

Motions

- a. My proposed second amended complaint would
  - i. Add the opt in plaintiff
  - ii. Add an additional related defendant entity
  - iii. Add class/collective allegations
  - iv. Add additional allegations that provide examples of specific workweeks in which the alleged violations occurred
- b. You would like to see a draft of our Second Amended Complaint before letting me know the topics of concern that might lead you to a Rule 12 motion. I will get you this by 8/16.
- c. We will meet again by zoom on 8/20/24 at 2pm ET so that you can point to paragraphs with which you still take issue, if any, so that we can discuss whether I am willing/able to further edit and make the allegations sufficient for you to deem a Rule 12 motion no longer warranted. If we are good on that front I will submit a motion to amend

and indicate it is not opposed; if you do intend to oppose we will come up with a briefing schedule during this zoom.

5. On 8/14 /24, two days early, I emailed a PDF of my proposed Second Amended Complaint to counsel for Defendants. Ex. 2-3.
6. On 8/20/2024 we met again by Zoom. During this meeting defense counsel indicated he was not prepared to discuss the substance of our proposed amendment and requested that instead of a PDF of the document that instead we send a “red-lined” Word version of it.
7. The same day, on 8/20/2024, I sent defense counsel a redlined version of our proposed second amended complaint, as requested. Ex. 4.
8. Our deadline for filing a joint status report is today, 9/5/2024. (“The parties are ordered to file, by no later than September 5, 2024, a joint status report indicating whether Defendants will oppose Plaintiffs' proposed motion to amend the [22] Amended Complaint.”)
9. By email on 9/5/24 I reminded opposing counsel “Emanuel: I haven’t heard from you at all on this. May I indicate to the court that you will not be opposing our motion to amend?”
10. He responded “Defendants have reviewed the proposed amended pleading and do not consent to Plaintiffs' anticipated motion for leave to amend. The complaint fails to state a claim upon which relief can be granted such that Defendants will oppose the motion for leave to amend, and - if granted - will then respond to the complaint by moving to dismiss pursuant to Rule 12(b)(6). Please be guided accordingly.”
11. I responded “If your intent was to oppose I think you were supposed to identify why for me, in case there’s something I could do to further edit to remedy it. But, seeing as how you seem adamant to litigate rather than try to work through these issues, what do you propose for the briefing schedule?” and proposed dates, since he hadn’t.
12. Prior to the above, we already had another round of similar procedures. The Complaint was filed almost a year ago, September 28, 2023 [Dkt. 1] and the amended complaint was ultimately filed on March 15, 2024 [Dkt. 22] following a motion to amend [Dkt. 20].

Respectfully submitted, this **5th** day of **September, 2024**.

ANDERSONDODSON, P.C.



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